

**From:** Spike Forbes  
**To:** Microsoft ATR  
**Date:** 1/10/02 3:33pm  
**Subject:** Microsoft antitrust settlement proposal

Dear Sirs: The proposed remedies in the settlement of your antitrust suit against Microsoft are an absolute and complete travesty. You are totally denying justice to the millions upon millions of citizens and computer users you supposedly represent. Microsoft has continually, repeatedly and flagrantly used improper and illegal techniques not only to maintain its monopoly status but far more seriously, to deny computer users access to far better technologies. It has created an environment where no competitor has had even a remote chance of successfully competing in the marketplace, independent of both quality issues and pricing issues. Your settlement would effectively allow Microsoft to continue its abhorrent practices without material modification.

One can go back to significant antitrust cases in the past, with IBM and AT & T recently coming immediately to mind. Before them, most monopolistic practices were of the price-fixing variety. But no company in the U.S. of the last sixty years has ever operated to such material detriment of the public interest as Microsoft. Sadly, most consumers are not even aware of what they have lost out on because few have seriously investigated (or, thanks to Microsoft, even been able to investigate) alternatives.

IBM was predatory in its pricing and packaging, and maintained its monopoly for years because of the service and comfort it offered. With all its flaws, it remains to this day a research-oriented company which has brought to the market incredible innovation. The marketplace eventually removed it from monopoly status, in about the same time frame as the antitrust case, if continued, would have done. While IBM's practices were contemptible and slowed the introduction of such things as personal computers for close to a decade, it never operated to force an environment where competitors simply could not survive (as Microsoft has overtly and illegally done).

At & T was never predatory in either its pricing or its packaging, probably because it always operated as a monopoly with government blessing, for the most part in quite a "benevolent" manner. The break-up probably served to actually hurt most customers for quite a long time since competition was not created in the one market that matters most to most consumers, local telephone service. Certain of the "Baby Bells" (Qwest is the one I am most familiar with) have been quite successful in maintaining their monopoly status, to the on-going detriment of consumers. Eventually, after many years of absolute turmoil in the long-distance market, consumers have clearly realized the benefits of a competitive market. The greatest loss to consumers has probably been from the effective demise of what was by far the highest quality research branch in the world, Bell Labs.

Microsoft has done no research of its own; it has created no quality products; it is not an innovator under any definition of the word; and it has implemented standards which have kept computers error-prone and horrendous to use for at least a dozen years longer than would have happened absent its monopoly. And it has done all of this, not by technology or by packaging or by pricing but by the totally abusive power of controlling the marketplace through illegal agreements, intimidation and outright fraud. Yes, it has also taken advantage of its established monopoly to apply predatory pricing and packaging, but that is not the damage it has done to the industry and to the consumer.

It is true that eventually the marketplace will remove Microsoft from its perch, but the DOJ would do consumers a huge favor, and would speed up the process by perhaps ten years, if it would adopt effective measures making Microsoft cease and desist. Placing billions of dollars in penalties on the company for a failure to amend its ways, not to mention breaking it into at least three pieces, is the only conceivable way to give any justice for the billions of dollars in both profit and in lost opportunities that it has bilked from consumers over the years. It is far too late to salvage the lost years, but positive change can still happen at a far greater rate than it otherwise will.

I have been one of the few who has insisted on using some of the alternative products which have existed over the last twenty years, just as, back in the 1970's I was one who insisted on using some of the alternatives to IBM products. I have also continually used Microsoft products, just as I also continually used IBM products at that time. So I feel very qualified to speak to the quality and the usability of a wide variety of alternatives. Microsoft has done computer users absolutely no favors, ever since the very early days of its operating system control. It has held the entire computer industry hostage for far too long.

It is not just the browser, but rather a whole range of practices; I could have gone through software product after product to show specifically how Microsoft implemented changes both to make that product no longer work (if it was clearly a better product) and to make it impossible for the developers of the product to keep up. In a nutshell, there are two primary practices (both on-going as far as I can tell): as the designer of the operating system, it provided the rules to others, while its own developers have been continually allowed to use capabilities known only to itself. And second, if its own products violated its own rules (which they frequently did and still do), it either changed the rules for the future or, more likely, it created new de facto standards outside the rules which other developers would have to modify their own products to meet. The headaches created by these two practices have meant two things: if a developer, sell your product to Microsoft if it is any good; you won't be able to issue new releases fast enough to keep up, and they'll actually target you if you really have a quality product that competes with one of

their own. If a consumer, buy Microsoft because they're the only ones who can keep their products working on their operating systems (in other words, even though another's product followed all the rules, if it worked anything less than perfectly, Microsoft uniformly said that the fault lay in the product; in fact, the fault most often lay in either the operating system itself or in the public version of what Microsoft said the operating system rules were).

Please do us all a favor, in a case you have already won, by coming up with truly rational and effective remedies, not the absurdities you are currently proposing.

Waldo E. Forbes  
37 Beckton Drive  
Sheridan, WY 82801  
307-674-6095

**CC:** attorney.general@po.state.ct.us@inetgw